



SP338

OK
Rec'd
6/12/96

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Thomas Zdeblick, M.D. et al.

Serial No. 08/411,017

Filed March 27, 1995

INTERBODY FUSION DEVICE AND
METHOD FOR RESTORATION OF
NORMAL SPINAL ANATOMY

)
) Before the Examiner

)
) D. Isabella

)
) Group Art Unit 3308

)
) March 4, 1996

RECEIVED

MAR 27 1996

GROUP 3300

RESPONSE TO RESTRICTION REQUIREMENTS

Assistant Commissioner for Patents
Washington, D. C. 20231

Sir:

In the Office Action dated February 22, 1996, a Restriction Requirement was issued with respect to three groups of claims. Application hereby provisionally elects to prosecute the claims in Group I, namely claims 1-14 drawn to a vertebra fusion device. This election is, however, made with traverse.

Specifically, it is believed that the claims 23-27 of Group III should also be considered at the same time as the claims in Group I. It is first believed that the search and examination can be readily conducted for both groups of claims at the same time. In addition, the method of Group III generally requires a fusion device of the type described in claim 1, for instance. For example, method claim 23 defines a step of providing hollow fusion device having a cylindrical outer surface interrupted by opposite flat sides, the outer surface having external threads. These limitations describing the device in the method claim can be found in device claim 1, specifically

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on March 4, 1996
(Date of Deposit)

Michael D. Beck
Name of Registered Representative
Michael D. Beck
Signature
March 4, 1996
Date of Signature

in the first clause defining a body having a hollow interior, the second clause in which the body is defined as having flat opposite side walls and the third clause identifying the external threads. In view of the foregoing, it is believed that the relationship between the device and method claims is sufficiently close to warrant consideration in the present application.

Reconsideration of the Restriction Requirement is hereby requested.

Respectfully submitted,

By



Michael D. Beck
Reg. No. 32,722
Woodard, Emhardt, Naughton,
Moriarty & McNett
Bank One Center Tower
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 634-3456